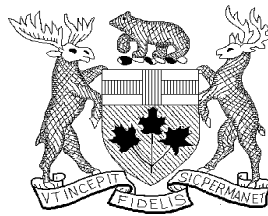


**Report of a Judicial Inquiry  
Re: His Worship  
Benjamin Sinai,  
A Justice of the Peace**

**The Honourable  
Mr. Justice David George Carr  
Commissioner**



Gavin MacKenzie/Trevor Guy  
Heenan Blaikie LLP  
200 Bay Street – Suite 2600  
South Tower, P.O. Box 185  
Royal Bank Plaza  
Toronto, Ontario M5J 2J4

Commission Counsel

Dennis W. Fenton  
Fenton & Lainevoöl  
Barristers and Solicitors  
355 Plouffe Street  
North Bay, Ontario  
P1B 4E9

Counsel for Justice of the Peace  
Benjamin Sinai

THE HONOURABLE MR. JUSTICE DAVID G. CARR  
ONTARIO COURT OF JUSTICE

200 FREDERICK STREET  
KITCHENER, ONTARIO N2H 6P1



L'HONORABLE JUGE M. DAVID G. CARR  
COUR DE JUSTICE DE L'ONTARIO

200 RUE FREDERICK  
KITCHENER (ONTARIO) N2H 6P1  
TELEPHONE/TÉLÉPHONE (519)741-3366  
FAX/TÉLÉCOPIEUR (519)741-3384

March 7, 2008

The Honourable David Onley  
Lieutenant Governor of the Province of Ontario  
Legislative Building  
Queen's Park, Suite 131  
Toronto, Ontario  
M7A 1A1

May it please Your Honour:

Re: **Report of the Commission of Inquiry into the conduct of  
His Worship Benjamin Sinai  
A Justice of the Peace**

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Further to my appointment by Order in Council No. OC1619/2007 to inquire into the question of whether there has been misconduct by His Worship Benjamin Sinai, a Justice of the Peace, and pursuant to s. 12 of the *Justices of the Peace Act*, R.S.O. 1990, C. J. 4 as amended, I now have the honour to submit my report.

David G. Carr  
Commissioner

Enclosures

**REPORT OF THE COMMISSION OF INQUIRY  
INTO THE CONDUCT OF  
HIS WORSHIP BENJAMIN SINAI  
A JUSTICE OF THE PEACE**

**INTRODUCTION:**

Effective June 27, 2007, I was appointed, pursuant to s. 12(1) of the *Justices of the Peace Act*, R.S.O. 1990, c. J. 4, to inquire into the question of whether there has been misconduct on the part of Justice of the Peace Benjamin Sinai and, if so, to make a recommendation to the Lieutenant Governor in Council that Benjamin Sinai be removed from his office or to recommend that the Justices of the Peace Review Council implement a disposition in s. 12(1) of the *Justices of the Peace Act*, R.S.O. 1990, c. J. 4.

This commission of inquiry was appointed on the recommendation of the Justices of the Peace Review Council. The issues, which form the subject matter of this commission, include the following:

**(1) IN-COURT CONDUCT:**

Was there misconduct on the part of Justice of the Peace Sinai on the 6<sup>th</sup> of September, 2005 when he advised Brian Lashbrook to plead guilty to various traffic offences and failed to afford him an opportunity to address the facts or the appropriate sanction to be imposed and then convicted him and adopted the prosecutor's submissions on sentence?

**(2) OUT-OF-COURT CONDUCT:**

Was there misconduct, which occurred in May 2006 after Justice of the Peace Sinai realized that the Justices of the Peace Review Council was commencing an investigation into the above-noted matter? Justice of the Peace Sinai responded to an inquiry from Regional Senior Justice of the Peace Jane E. Forth by stating to her Administrative Assistant, Lorna Laforest, that he would be unable to render two reserved judgments unless Justice of the Peace Forth could make the Justices of the Peace Review Council investigations "go away". It is also alleged that Justice of the Peace Sinai declined to speak to the Regional Senior Justice of the Peace or send her a letter clarifying his position with respect to rendering judgments in the outstanding matters.

The hearing relating to both the in-court and out-of-court allegations commenced on January 15, 2008. At the opening of the inquiry an agreed statement of facts was filed before me by commission counsel and counsel for Justice of the Peace Sinai. The commission heard one witness, Lorna Laforest, and then heard submissions from both counsel.

## **STATUTORY AUTHORITY:**

Section 11, *Justices of the Peace Act*, R.S.O. 1990, c. J. 4:

### **“Investigation of complaints**

**11. (1)** When the Review Council receives a complaint against a justice of the peace, it shall take such action to investigate the complaint, including a review of it with the justice of the peace, as it considers advisable. R.S.O. 1990, c. J. 4, s. 11(1).

### **Referral to Associate Chief Justice Co-ordinator of Justices of the Peace**

**(2)** The Review Council may, if it considers it appropriate to do so, transmit complaints to the Associate Chief Justice Co-ordinator of Justices of the Peace. R.S.O. 1990, c. J. 4, s. 11(2); 1994, c. 12, s. 52; 2002, c. 18, Sched. A, s. 11(12).

### **Proceedings not public**

**(3)** The proceedings of the Review Council shall not be public, but it may inform the Attorney General that it has undertaken an investigation and the Attorney General may make that fact public. R.S.O. 1990, c. J. 4, s. 11(3).

### **Prohibiting publication**

**(4)** The Review Council may order that information or documents relating to its investigation not be published or disclosed except as required by law. R.S.O. 1990, c. J. 4, s. 11(4).

### **Powers**

**(5)** The Review Council has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act. R.S.O. 1990, c. J. 4, s. 11(5).

### **Notice of Disposition**

**(6)** When the Review Council has dealt with a complaint regarding a justice of the peace, it shall inform,

(a) the person who made the complaint; and,

(b) the justice of the peace, if the complaint was brought to his or her attention,

of its disposition of the complaint, R.S.O. 1990, c. J. 4, s. 11(6).

### **Report and recommendations**

**(7)** The Review Council may report its opinion regarding the complaint to the Attorney General and may recommend,

(a) that an inquiry be held under section 12;

(b) that the justice of the peace be compensated for all or part of his or her costs in connection with the investigation. R.S.O. 1990, c. J. 4, s. 11(7).

**Copy to justice**

(8) A copy of the report shall be given to the justice of the peace, R.S.O. 1990, s. J. 4, s. 11(8).

**Right to be heard**

(9) The Review Council shall not make a report unless the justice of the peace was notified of the investigation and given an opportunity to be heard and to produce evidence. R.S.O. 1990, c. J. 4, s. 11(9).

**Publication of report**

(10) The Attorney General may make all or part of the report public, if he or she is of the opinion that it is in the public interest to do so. R.S.O. 1990, c. J. 4, s. 11(10).

12.(1) The Lieutenant Governor in Council may appoint a provincial judge to inquire into the question whether there has been misconduct by a justice of the peace.”

Accordingly, on January 15, 2008, this inquiry commenced and completed pursuant to s. 12 of the *Justices of the Peace Act*.

**BACKGROUND OF JUSTICE OF THE PEACE BENJAMIN SINAI:**

Pursuant to the agreed statement of facts, it is clear that Benjamin Sinai was appointed as a justice of the peace by Order in Council, dated June 28, 1984. Since that date, he performed the full range of functions required of any justice of the peace, including appearances in assignment court, intake court, bail court and *Provincial Offences* court. Justice of the Peace Sinai has presided throughout his career exclusively in the Northeast Region and is at the present time 66 years of age.

On March 16, 2006, Dr. J. O'Donnell wrote a letter indicating that it was his medical opinion that Justice of the Peace Benjamin Sinai should be off work due to illness from Monday, March 13, 2006 for an indefinite period of time. Dr. O'Donnell indicated that Justice of the Peace Sinai suffered from angina, anxiety, coronary artery disease, and post-herpetic neuralgia. Dr. O'Donnell indicated in his letter the various medications that Justice of the Peace Sinai was taking at the time.

Doctor O'Donnell further indicated that it was Justice of the Peace Sinai's opinion that the stress he was under caused pain, which in turn distracted him and caused his lack of concentration. As a result of his lack of concentration, Justice of the Peace Sinai felt that he had “flawed judgment”.

On July 26, 2006, Dr. O'Donnell completed a report for Great-West Life Assurance Company entitled Attending Physician's Initial Long Term Disability Benefit Statement. In that report, Dr. O'Donnell indicates that Justice of the Peace Sinai's symptoms first began to appear in 1991. This report indicated a similar diagnosis that was contained in Dr. O'Donnell's March 16, 2006 letter. In the section relating to comments, the following is written:

"Prognosis for longevity is actually poor. Very disabled by angina and post-herpetic neuralgia. Unable to perform his duties."

In a letter from his counsel, Dennis W. Fenton, dated August 4, 2006, to the Justices of the Peace Review Council, the following comment appears:

"(Justice of the Peace Sinai) is presently in the process, with the assistance of his physician, Dr. O'Donnell, of applying for Long Term Disability. Part of the difficulties which His Worship has experienced for some considerable time is that his ability to act judicially has been significantly impacted by the stress and anxiety occasioned by his serious physical and emotional health problems. Shortly said, he has not been able to function in a fashion that he felt was "judicially" normal."

Having carefully reviewed the agreed statement of facts filed before me, this is the only information that I have concerning Justice of the Peace Sinai's health issues and his prognosis. In submissions, counsel for Justice of the Peace Sinai indicated that his client wished to return to work.

According to the letter of Dr. O'Donnell dated March 16, 2006, Justice of the Peace Sinai has been away from his employment since March 13, 2006. On November 21, 2006, Great-West Life wrote to Justice of the Peace Sinai indicating that his claim for disability benefits would not be payable. However, I was advised by his counsel during his submissions at this inquiry that Justice of the Peace Sinai appealed that decision successfully and disability benefits are being paid at the present time.

#### **STANDARD OF PROOF:**

It is agreed by both counsel that the same standard for conduct is applicable to justices and justices of the peace.

In my view, having regard to my role as commissioner in these proceedings, I must scrutinize the evidence carefully and apply the highest standard that can be applied in relation to a civil matter without approaching the criminal standard of proof beyond a reasonable doubt. In *Hanes v. The Wawanesa Mutual Insurance Company*, 1963 S.C.R. 154, the Supreme Court of Canada determined that, although a high degree of proof is required in matters such as these, I am still entitled to make my decision on the balance of probabilities.

In *Baiter v. Baiter*, 1950 2 All E.R. 458 Lord Denning stated:

“In criminal cases the charge must be proved beyond reasonable doubt, but there may be degrees of proof within that standard. Many great judges have said that, in proportion as the crime is enormous, so ought the proof to be clear. So also in civil cases. The case may be proved by a preponderance of probability, but there may be degrees of probability within that standard. The degree depends on the subject matter. A civil court, when considering a charge of fraud, will naturally require a higher degree of probability than that which it would require if considering whether negligence were established. It does not adopt so high a degree as a criminal court, even when it is considering a charge of a criminal nature, but still it does require a degree of probability which is commensurate with the occasion.”

I accept that I must scrutinize the evidence before me with that standard of proof in mind.

#### **IN-COURT CONDUCT:**

On September 6, 2005, Justice of the Peace Sinai dealt with a case involving an individual by the name of Brian Lashbrook. Mr. Lashbrook was charged with the offences of speeding, failing to have a current validation permit and driving a motor vehicle while a Class G-1 licence holder not being accompanied by a qualified driver.

The following is taken from a transcript regarding Mr. Lashbrook’s matters:

“MR. SCHARGER: The next matter is Brian Lashbrook, 11, 12, 13 on the list. Brian Lashbrook. Are you Brian Lashbrook, sir?

MR. LASHBROOK: Yes.

MR. SCHARGER: First appearance, Your Worship.

THE COURT: Brian, what do you want to do with these?

MR. LASHBROOK: I don’t know what the options are.

THE COURT: I cannot hear you.

MR. LASHBROOK: I don’t know what my options are.

THE COURT: Well, you have come into court without knowing anything. Do you expect us to give you a whole education on what is to transpire?

MR. LASHBROOK: I’ve never been in court before.

THE COURT: But you did not find out from anybody what you were supposed to do prior to getting here?

MR. LASHBROOK: No.

THE COURT: So in that case, I am just going to tell you suppose you plead guilty and we get rid of it this morning.

MR. LASHBROOK: Okay.

THE COURT: Do you want to plead guilty on all matters?

MR. LASHBROOK: Yes.

THE COURT: Are you ready to proceed on all matters?

MR. SCHARGER: Your Worship, if it pleases the court we probably don't need to proceed against all matters. If the matter is held down momentarily I can sort things out with Mr. Lashbrook.

THE COURT: Sir, on the first break you will have an opportunity to talk with the prosecutor. Since you have elected to plead guilty to dispose of all these, consideration will be brought to your attention on that."

It would appear that later in the morning Mr. Lashbrook reappears before Justice of the Peace Sinai and, after arraignment, pleads guilty to speeding and not being with a qualified driver, possessing only a G-1 Class licence. The prosecutor relied on the facts contained in the information that was read to Mr. Lashbrook and the following occurred:

"THE COURT: Sir, the facts do you agree to?

MR. LASHBROOK: I do.

THE COURT: Do you want to say anything to the court concerning the facts, sir?

MR. LASHBROOK: Just that....

THE COURT: The facts being admitted, conviction is entered. Charge number 2.

MR. SCHARGER: Withdraw that.

THE COURT: Drive motor vehicle no current validated permit, withdrawn at this time. Submission on penalty for counts 1 and 3 please.



MR. SCHARGER: Yes sir, with respect to speeding, the fine is calculated by the *Highway Traffic Act* as \$280.00, plus applicable court surcharges. That is the request for that matter. With respect to the class G1 licence, it is governed by the general penalty section, so anywhere from \$60.00 to \$500.00. \$150.00 would suffice, Your Worship. By way of explanation, this individual is pleading guilty on his first appearance and he has no driving record to speak of. Thank you.

THE COURT: Brian, do you want to say anything before any fines are imposed?

MR. LASHBROOK: No.

THE COURT: Are you working?

MR. LASHBROOK: Yes, I am.

#### S E N T E N C I N G

J. P. Sinai, Orally: On the speeding charge, \$280.00, plus costs, plus surcharge. How much time do you need to pay this fine, sir?

MR. LASHBROOK: Two months.

THE COURT: 60 days. On count number 3, \$150.00, plus costs, plus surcharge. How much time do you need?

MR. LASHBROOK: Two months.

THE COURT: 60 days. Thank you sir for your time. You may go.”

Clearly, when Mr. Lashbrook’s matters are called, he is asking Justice of the Peace Sinai for some assistance because, as Mr. Lashbrook states: “I don’t know what my options are.” and “I’ve never been in court before.”

In response to that, Justice of the Peace Sinai states: “Well, you have come into court without knowing anything. Do you expect us to give you a whole education on what is to transpire?” And, further, “But you did not find out from anybody what you were supposed to do prior to getting here?” and then, finally, “So in that case, I am just going to tell you suppose you plead guilty and we get rid of it this morning.”

It is my view that these comments by Justice of the Peace Sinai are contrary to what the public expects of a judicial officer and bring the administration of justice into disrepute.

In *R. v. McGibbon*, (1988), 45 C.C.C. (3d) 334, the Ontario Court of Appeal stated:

“Consistent with the duty to ensure that the accused has a fair trial, the trial judge is required within reason to provide assistance to the unrepresented accused, to aid him in the proper conduct of his defence, and to guide him throughout the trial in such a way that his defence is brought out with its full force and effect. How far the trial judge should go in assisting the accused in such matters as the examination and cross-examination of witnesses must, of necessity, be a matter of discretion.”

In *R. v. Tran*, 2001 O.J. No.3056, the Ontario Court of Appeal cites with approval *R. v. Darlyn*, 1946 88 C.C.C. 269 (B.C.C.A.) as follows:

“There are two traditional common law rules which have become so firmly embedded in our judicial system that a conviction is very difficult to sustain on appeal if they are not observed. The first is, that if the accused is without counsel, the court shall extend its helping hand to guide him throughout the trial in such a way that his defence, or any defence the proceedings may disclose, is brought out to the jury with its full force and effect. The second is, that it is not enough that the verdict in itself appears to be correct, if the course of the trial has been unfair to the accused. An accused is deemed to be innocent, it is in point to emphasize, not until he is found guilty, but until he is found guilty according to law.”

In my opinion, Justice of the Peace Sinai did not fulfill the responsibility he owed to Mr. Lashbrook when Mr. Lashbrook appeared before him on September 6, 2005. Instead of helping Mr. Lashbrook, he chastised him for not knowing court procedure and suggested that he just plead guilty “to get rid of” the charges outstanding against him.

I am further concerned that, after the prosecutor relied on the facts as contained in the information before the court, Justice of the Peace Sinai asked Mr. Lashbrook if he had anything to say about the facts and it would appear that Mr. Lashbrook did indeed have some comment about the facts but Justice of the Peace Sinai interrupted him and registered a conviction on the facts presented.

The prosecutor was given an opportunity to submit what he believed the proper penalty should be and once he did so, Justice of the Peace Sinai asked Mr. Lashbrook, “Brian, do you want to say anything before any fines are imposed?”

Although Justice of the Peace Sinai gave Mr. Lashbrook the opportunity to make some comments, it was never explained to Mr. Lashbrook what submissions he could make at this stage of the hearing.

Further to Justice of the Peace Sinai’s conduct at this trial, Regional Senior Justice of the Peace Jane Forth received a letter from an enforcement officer on September 5, 2005. Although this enforcement officer wished to remain anonymous, he expressed

concern about Justice of the Peace Sinai's recommendation that Brian Lashbrook plead guilty.

Regional Senior Justice of the Peace Forth wrote to the Justices of the Peace Review Council on October 18, 2005, advising them of the complaint and enclosed a transcript. On January 3, 2006, the Justices of the Peace Review Council wrote to Justice of the Peace Sinai requesting that he review the transcript and provide the Review Council with his written comments regarding how he dealt with Mr. Lashbrook, an unrepresented accused.

On January 24, 2006, Justice of the Peace Sinai responded to the Justices of the Peace Review Council. Justice of the Peace Sinai responded in part as follows:

“...I am not at all all that pleased with myself on what transpired on different cases that day. I admit I made some pretty bad mistakes and I am sorry to hear that I rubbed someone the wrong way and I am sorry to have put anyone through any discomfort levels.”

Justice of the Peace Sinai further indicates in his letter that he tried to show respect for Mr. Lashbrook and that he felt he dealt with Mr. Lashbrook in a sincere and fair manner. Justice of the Peace Sinai then indicated that since he was a significant distance from home when he heard the Lashbrook matter, he was likely trying to conclude his list as quickly as possible. He then complained that he had too little time to travel, calling this travel time, “windshield time”. He ended his letter by promising to concentrate on court time and not travel time in the future and apologized for his mistakes.

It is clear that justices of the peace are very important judicial officers. Although they are not required to have formal legal training before their appointment, their decisions regarding bail, the issuance of search warrants and *Provincial Offence* matters seriously impact the liberty and privacy of those who appear before them. Indeed, for the vast majority of society who have contact with the court system, their first and only contact would be to appear before a justice of the peace.

As Justice Hogan stated in the Commission of Inquiry into the conduct of His Worship Justice of the Peace Leonard Blackburn:

“It is the justices of the peace who preside in court on matters such as parking tags, speeding tickets, by-law infractions, and *Provincial Offences*. These are the day to day type of “judicial” issues that confront most people. It is therefore quite probable that a great number of the public will form judgments of our justice system based on their experiences with a justice of the peace.”

In an article entitled “Judges on Trial – A Study of the Appointment and Accountability of the English Judiciary” by Shimon Shetreet, it is stated at page 282:

“Judges could not discharge their functions without complete public confidence. If a judge behaved in a way which seriously impaired public confidence in him, he would no longer be able to administer justice and therefore should leave the bench. The test of public confidence was expressed in Canada by The Honourable I. C. Rand who was appointed a commissioner to investigate the conduct of a judge. In a report recommending the removal of the judge the commissioner proposed this test for determining unfitness in a judge. ‘Would the conduct fairly determined in the light of all circumstances lead fair-minded persons acting normally, expressing in fact in light public opinion to attribute such a deficit of normal character that the discharge of the duties of the office thereafter would be suspect? Has it destroyed unquestioning confidence of uprightness, or moral integrity, of honesty and decision, the elements of public honour? If so, then unfitness has been demonstrated’.”

Having carefully considered Justice of the Peace Sinai’s conduct in relation to the Lashbrook matter, I am completely satisfied that his actions constitute misconduct, as set out in s. 12(1) of the *Justices of the Peace Act*. Justice of the Peace Sinai had an obligation to assist Mr. Lashbrook, who clearly had no understanding of the court process. Instead of assisting him, he advised him to plead guilty and chastised him for not being more knowledgeable about his options before the court. Further, Justice of the Peace Sinai did not allow Mr. Lashbrook to comment on the facts, as alleged by the prosecution and did not provide Mr. Lashbrook with sufficient information to properly deal with the matter of disposition.

Counsel, on behalf of Justice of the Peace Sinai, submitted to me that I should consider the fact that the complaint in relation to Mr. Lashbrook was not made by Mr. Lashbrook but by an enforcement officer who wished to remain anonymous. I have considered that submission but find that Justice of the Peace Sinai’s actions amount to misconduct, notwithstanding who made the actual complaint. It is my view that the conduct of Justice of the Peace Sinai must be assessed on its own notwithstanding who made the complaint.

#### **OUT-OF-COURT CONDUCT:**

On May 1, 2006, Regional Senior Justice of the Peace Forth wrote a letter to Justice of the Peace Sinai noting that he had been off work since March 13, 2006. Regional Senior Justice of the Peace Forth inquired whether Justice of the Peace Sinai would be in a position to render judgment, in two outstanding cases before him.

The only witness to testify before me at this inquiry was Lorna Laforest. She testified that she was the administrative assistant for Regional Senior Justice of the Peace Forth since June of 1994. Ms. Laforest testified that she typed the letter, dated May 1, 2006.

At one point, Justice of the Peace Sinai contacted her and spoke with her for approximately 20 minutes. Ms. Laforest is familiar with Justice of the Peace Sinai as a result of her duties as administrative assistant. Justice of the Peace Sinai told her he was sick and discussed with her his stress level and some personal issues. Justice of the Peace Sinai indicated that the stress he felt was being caused by the outstanding review board matter and that if Regional Senior Justice of the Peace Forth could make this review board in Timmins “go away”, his stress would also go away. Justice of the Peace Sinai, according to Ms. Laforest, also said that Regional Senior Justice of the Peace Forth should be told to talk to “her friend” and make the review board go away and at that point Justice of the Peace Sinai would come back to work. Justice of the Peace Sinai told Ms. Laforest to tell Regional Senior Justice of the Peace Forth this information. As a result, Ms. Laforest did report the conversation to Regional Senior Justice of the Peace Forth.

On May 31, 2006, Regional Senior Justice of the Peace Forth wrote a second letter to Justice of the Peace Sinai. It was requested in this letter that Justice of the Peace Sinai respond in writing to advise whether he would be in a position to render his outstanding judgments. Regional Senior Justice of the Peace Forth indicated that she wished a response by June 15, 2006. Justice of the Peace Sinai never responded, as required.

Shortly after the letter of May 31, 2006 was sent, Ms. Laforest again spoke to Justice of the Peace Sinai.

In that conversation, Justice of the Peace Sinai indicated that he could not make the decisions on his outstanding judgments because his doctor had indicated to him that he was not to render decisions while he was off on sick leave. Justice of the Peace Sinai indicated further that he cannot write letters and that Ms. Laforest should have reference to his doctor’s letter.

In cross-examination, Ms. Laforest indicated that Justice of the Peace Sinai seemed to talk in circles. One had to listen carefully to understand what he was saying. She felt that it was “hit and miss”.

In regard to the outstanding judgments, neither of these judgments was ever rendered by Justice of the Peace Sinai. One case involving the North Bay General Hospital was apparently a somewhat complex case, which required ten days of evidence before Justice of the Peace Sinai. This case was rescheduled and completed by another judicial officer, according to Ms. Laforest’s evidence, but according to her recollection the other outstanding case was not rescheduled.

On June 7, 2006, Associate Chief Justice and Co-ordinator of Justices of the Peace Donald Ebbs wrote a letter to the Justices of the Peace Review Council filing a further formal complaint of misconduct in relation to Justice of the Peace Sinai. This additional formal complaint related to Justice of the Peace Sinai’s failure to respond to Regional Senior Justice of the Peace Forth’s requests and Justice of the Peace Sinai’s comments to Lorna Laforest.

On July 6, 2006, a letter was sent to Justice of the Peace Sinai asking for a response to Associate Chief Justice Ebb's letter.

On August 4, 2006, a response was sent by Dennis W. Fenton, counsel to Justice of the Peace Sinai, indicating that Justice of the Peace Sinai never wished to articulate his concerns, as described by Associate Chief Justice Ebbs in his letter. Indeed, counsel indicated in his letter that Justice of the Peace Sinai was attempting to convey his frustration and may have mistakenly left Ms. Laforest with the wrong impression.

Having considered very carefully the evidence given by Ms. Laforest, I find her to be an entirely credible witness, who gave her evidence in a clear and forthright manner. I accept entirely her evidence that Justice of the Peace Sinai stated that if Regional Senior Justice of the Peace Forth could talk to "her friend" and make the review board "go away", his stress level would decrease and he may be able to return to work.

It is clear in my mind that the standard of conduct for judges found in a document entitled "Principles of Judicial Office" is also the standard of conduct for justices of the peace in this province. It confirms the status of justices of the peace as members of the judiciary and confirms their status as judicial officers.

As stated in the publication from the Canadian Judicial Council:

"Ethical Principles For Judges: An independent judiciary is indispensable to impartial justice under law. Judges should, therefore, uphold and exemplify judicial independence in both its individual and institutional aspects."

That being said, in my view, it is equally important in our judicial system for all judicial officers to be accountable, not only for their actions in court but for their actions out of court as well.

At Commentary 5 in "Ethical Principles for Judges", it states:

"Given the independence accorded judges, they share a collective responsibility to promote high standards of conduct. The rule of law and the independence of the judiciary depend primarily upon public confidence. Lapses and questionable conduct by judges tend to erode that confidence. As Professor Nolan points out, judicial independence and judicial ethics have a symbiotic relationship. Public acceptance of and support for court decisions depends upon public confidence in the integrity and independence of the bench. This, in turn, depends upon the judiciary upholding high standards of conduct."

In my mind, part of a judicial officer's accountability requires that he respond in a timely fashion to complaints that are made regarding his conduct. I believe that also

includes the requirement that timely responses must be made to inquiries by a judicial officer's supervisor. In this case, Justice of the Peace Sinai never responded directly to Regional Senior Justice of the Peace Forth, despite her insistence that he do so. Indeed, he never even showed the courtesy to speak with her personally, having spoken on two occasions to her Administrative Assistant, Lorna Laforest. He chose instead to rely on his illness, which he indicated would not allow him to write letters.

I find this conduct to be concerning and incompatible with the requirement that a judicial officer be accountable for his actions.

However, I am even more concerned about his comments to Lorna Laforest, indicating that if Regional Senior Justice of the Peace Forth and "her friend" could make the review board "go away", he would return to work since his stress level would be relieved.

Therefore, it is my opinion that the actions of Justice of the Peace Sinai, in his comments to Lorna Laforest and his dealings with Regional Senior Justice of the Peace Forth, clearly constitute misconduct.

### **CONCLUSION:**

Having found misconduct by Justice of the Peace Sinai in both the in-court and out-of-court issues, I must now determine what recommendation should be made. Section 12 of the *Justices of the Peace Act* reads as follows:

**"12.(1)** The Lieutenant Governor in Council may appoint a provincial judge to inquire into the question whether there has been misconduct by a justice of the peace.

#### **Powers**

**(2)** The *Public Inquiries Act* applies to the inquiry. R.S.O. 1990, c. J. 4, s. 12(2).

#### **Report**

**(3)** The report of the inquiry may recommend that the Lieutenant Governor in Council remove the justice of the peace from office in accordance with section 8, or that the Review Council implement a disposition under subsection (3.3). 1994, c. 12, s. 53.

#### **Same**

**(3.1)** The report may recommend that the justice of the peace be compensated for all or part of the cost of legal services incurred in connection with the inquiry.  
1994, c. 12, s. 53.

#### **Maximum**

(3.2) The amount of compensation recommended under subsection (3.1) shall be based on a rate for legal services that does not exceed the maximum rate normally paid by the Government of Ontario for similar services. 1994, c. 12, s. 53.

**Dispositions by Review Council**

(3.3) If the report recommends that the Review Council implement a disposition under this subsection, the Council may,

- (a) warn the justice of the peace;
- (b) reprimand the justice of the peace;
- (c) order the justice of the peace to apologize to the complainant or to any other person;
- (d) order the justice of the peace to take specified measures, such as receiving education or treatment, as a condition of continuing to sit as a justice of the peace;
- (e) suspend the justice of the peace with pay, for any period; or
- (f) suspend the justice of the peace without pay, but with benefits, for a period up to 30 days. 1994, c. 12, s. 53.”

Counsel on behalf of Justice of the Peace Sinai submits that even if I find misconduct on the part of Justice of the Peace Sinai, this misconduct is not so grave that a recommendation for removal from office should be made by me. Such a recommendation can only be made if it is determined that Justice of the Peace Sinai has become incapacitated or disabled from the due execution of his office by reason of conduct that is incompatible with the execution of his duties or his office. Counsel submits that I should consider the range of sanctions in s. 12 short of a recommendation for removal.

It is important to note that I have very little information about Justice of the Peace Sinai, other than what I have indicated earlier in this decision. Justice of the Peace Sinai did not testify before me and as I understand it, he is still off on Long Term Disability but hopes to return to work at one point. There is nothing before me indicating when Justice of the Peace Sinai could return to work nor is there any information about the treatment or counselling he has taken, if any, or the prognosis for the illnesses, which have been described by his doctor, Dr. O'Donnell. Additionally, no letters of reference have been filed on his behalf nor have witnesses been called to attest to his good character.

In considering the appropriate disposition, I am clearly mindful that the purpose of judicial discipline in the *Justices of the Peace Act* is to rectify misconduct and restore public confidence in the administration of justice.

However, in my view, the conduct of Justice of the Peace Sinai, both in court and out of court considered separately and cumulatively, is incompatible with the due execution of the duties of the office of the Justice of the Peace, and has brought the administration of justice into disrepute.



Therefore, the only disposition that can properly deal with this matter is a recommendation that Justice of the Peace Sinai be removed from office. Only this disposition would restore public confidence in the administration of justice in my mind.

In dealing with Mr. Lashbrook, Justice of the Peace Sinai clearly failed to recognize the obligations that he owed to an unrepresented individual, who was clearly appearing in court for the first time. Justice of the Peace Sinai did not respond as required to the letter of his supervisor and instead called her administrative assistant suggesting that he would return to work if complaints against him would “go away”. I find this conduct entirely incompatible with the role expected of a judicial officer in this province.

I, therefore, recommend that the Lieutenant Governor in Council remove Justice of the Peace Sinai from office in accordance with s. 8 of the *Justices of the Peace Act*.

**COSTS:**

This case has clearly been facilitated by the filing of an Agreed Statement of Facts and the calling of only one witness, Lorna Laforest.

Therefore, as recommended by commission counsel, pursuant to s. 12(3.1) of the *Justices of the Peace Act*, I recommend that Justice of the Peace Benjamin Sinai be compensated for all of his costs for legal services incurred in connection with this inquiry.

Dated at Kitchener this 7<sup>th</sup> day of March 2008.

David George Carr  
Commissioner

## **LIST OF APPENDICES**

1. Order in Council No. 1619/2007
2. Notice of Inquiry
3. Notice of Public Hearing
4. Statement of Agreed Facts

Order in Council  
Décret

(Ontario logo)  
Executive Council  
Conseil des ministres

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and concurrence of the Executive Council, orders that:

Sur la recommandation du soussigné, le lieutenant-gouverneur, sur l'avis et avec le consentement du Conseil des ministres, décrète ce qui suit:

WHEREAS under subsection 11.1(22) of the *Justices of the Peace Act*, R.S.O. 1990, c. J.4, a complaint against a justice of the peace that was made to the Review Council before January 1, 2007, and considered at a meeting of the Review Council before that day, shall be dealt with in accordance with sections 11 and 12 of the *Justices of the Peace Act* as those sections read immediately before January 1, 2007;

AND WHEREAS a complaint against His Worship Benjamin Sinai was made and considered at a meeting of the Review Council prior to January 1, 2007;

AND WHEREAS pursuant to subsection 12(1) of the *Justices of the Peace Act* as it read immediately before January 1, 2007, the Lieutenant Governor in Council may appoint a provincial judge to inquire into the question of whether there has been misconduct by a justice of the peace;

AND WHEREAS the Justice of the Peace Review Council has, pursuant to subsection 11(7) of the *Justices of the Peace Act* as it read immediately before January 1, 2007, made a report dated January 25, 2007 to the Attorney General regarding His Worship Benjamin Sinai, a Justice of the Peace, in which the Justices of the Peace Review Council recommended that an inquiry regarding His Worship Benjamin Sinai be held under subsection 12 of the *Justice of the Peace Act*;

NOW THEREFORE, pursuant to subsection 12(1) of the *Justices of the Peace Act*, the Honourable Mr. Justice David George Carr of the Ontario Court of Justice be appointed to inquire into the question of whether there has been misconduct by His Worship Benjamin Sinai and to prepare a report in accordance with subsection 12 of the *Justices of the Peace Act*.

Recommended \_\_\_\_\_ Concurred \_\_\_\_\_  
Attorney General Chair of Cabinet

Approved and Ordered June 27, 2007 \_\_\_\_\_  
Date Lieutenant Governor

**JUSTICES OF THE PEACE REVIEW COUNCIL**

IN THE MATTER OF a complaint respecting

**Justice of the Peace Benjamin Sinai**

Justice of the Peace in the

North East Region

**AMENDED NOTICE OF INQUIRY**

The Justices of the Peace Review Council (the “Review Council”), pursuant to section 11 of the *Justices of the Peace Act*, S.O. 1989, c. 46, as amended, has directed that the following matter of a several complaints regarding the conduct or actions of Justice of the Peace Benjamin Sinai be referred to the Review Council, for investigation.

A complaint has been made to the Review Council regarding your conduct. It is alleged that you have conducted yourself in a manner that is incompatible with the execution of the duties of your office and that by reason thereof you have become incapacitated or disabled from the due execution of your office. The particulars of the complaint regarding your conduct are set out in Appendix “A”, Particulars of the Complaint, is attached to this Notice of Inquiry.

**The Review Council will convene at the Judges Conference Room, Suite 2350, 1 Queen Street East, in the City of Toronto, on Wednesday, the 16th day of August, 2006, at 10:00 a.m. in the forenoon or as soon thereafter as the Review Council can be convened to set a date for the inquiry into the complaint.**

A Justice of the Peace whose conduct is being investigated in proceedings before the Review Council may be represented by counsel and shall be given the opportunity to be heard and to produce evidence.

The Review Council may, pursuant to sections 11(6) and (7) of the *Justices of the Peace Act*:

- (a) dispose of the complaint;
- (b) report its opinion regarding the complaint to the Attorney General and recommend that an inquiry be held under section 12 of the *Justices of the Peace Act*; and
- (c) report its opinion regarding the complaint to the Attorney General and recommend that the Justice of the Peace be compensated for all or part of his or her costs in connection with the investigation;

and it shall inform the person who made the complaint and the Justice of the Peace of its disposition of the complaint.

You, your counsel or your representative may contact the office of the solicitor for the Review Council in this matter, Douglas C. Hunt, Q.C., Hunt Partners LLP, 192 Bedford Road, Toronto, Ontario, M5R 2K9, Telephone: (416) 350-2939, Fax: (416) 943-1484.

If you fail to attend before the Review Council in person or by representative, the Review Council may proceed with the inquiry in your absence.

August 9, 2006

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Valerie P. Sharp  
Registrar  
Justices of the Peace Review Council

TO: **Justice Of The Peace Benjamin Sinai**  
c/o Dennis W. Fenton  
Barrister & Solicitor  
355 Plouffe Street,  
North Bay,  
Ontario  
P1B 4E9

## **APPENDIX "A"**

### **PARTICULARS OF THE COMPLAINT**

#### Advising a Defendant to Plead Guilty

1. On September 6<sup>th</sup>, 2005, Justice of the Peace Sinai advised a defendant appearing before him to plead guilty to various traffic offences with which he was charged. The defendant then pleaded guilty and was convicted of two charges.
2. Having found the defendant guilty on the two traffic offences, Justice of the Peace Sinai failed to afford the defendant an opportunity to speak to the facts underlying the convictions, or make any submissions respecting sanction. The Crown submission on sanctions for the two offences was accepted and the defendant was fined a total of \$430.00 plus court surcharges

#### Conditions for Completing Decisions Under Reserve

3. On or about March 16, 2006, Justice of the Peace Sinai caused to be delivered to the Office of the Regional Senior Justice of the Peace, Her Worship Forth ("RSJP Forth") a letter from his attending physician, Dr. J. O'Donnell. The receipt of this letter occurred within two weeks of Justice of the Peace Sinai receiving notice that the Justices of the Peace Review Council was commencing an investigation into the complaints described in paragraphs 1 through 9 herein.
4. Dr. O'Donnell indicated in his letter that Justice of the Peace Sinai was to be "off work" for "an indefinite period of time."
5. At the time Justice of the Peace Sinai took this leave, he had two decisions under reserve. One of these was *R. v. North Bay Hospital*, a lengthy trial judgment which had been under reserve since October 25, 2005.
6. RSJP Forth wrote to Justice of the Peace Sinai on May 1, 2006, inquiring if he was in a position to render his outstanding judgments, and asking if he could assist in providing a time line for when the matters would be addressed.

7. After receiving this letter, His Worship Sinai contacted RSJP Forth's office as a result of a follow-up message left for him. He indicated to her assistant, Ms. Lorna Laforest, that he was anxious about the Review Council proceeding, and could not render any decisions, for the reasons set out in Dr. O'Donnell's letter.
8. His Worship Sinai went on to indicate to Ms. Laforest words to the effect that if RSJP Forth could make the Review Council proceeding "go away" he would be able to return to work and render his decisions. Justice of the Peace Sinai refused to speak with RSJP Forth herself.
9. On May 31<sup>st</sup>, 2006, RSJP Forth sent a second letter to Justice of the Peace Sinai seeking clarification of his position with respect to rendering his decision in *R. v. North Bay Hospital*. She requested he provide a response in writing by June 15<sup>th</sup>, 2006.
10. After receiving the May 31<sup>st</sup> letter, Justice of the Peace Sinai then contacted RSJP Forth's office by telephone and again indicated to Ms. Laforest that he could not render his decision because of his illness. He also stated he would not provide anything in writing to RSJP Forth, and asked if his previous message regarding the Review Council proceeding had been conveyed to RSJP Forth.
11. Justice of the Peace Sinai was advised by Ms. Laforest that his previous message had been conveyed, but that his position was not clear to RSJP Forth. He was urged to speak to RSJP Forth himself, but he refused to do so.
12. The above-noted conduct as set out in paragraphs 1 through 18 is incompatible with the due execution of the duties of the office of Justice of the Peace, and has brought the administration of justice into disrepute.





**COMMISSION OF INQUIRY INTO THE CONDUCT OF  
HIS WORSHIP BENJAMIN SINAI, A JUSTICE OF THE PEACE**

**NOTICE OF PUBLIC HEARING**

Pursuant to subsection 12(1) of the *Justices of the Peace Act*, R.S.O. 1990, c.J.4, as it read immediately before January 1, 2007, the Honourable Justice David George Carr of the Ontario Court of Justice has been appointed to inquire into the question of whether a recommendation should be made that the Lieutenant-Governor in Council should remove His Worship Benjamin Sinai, a Justice of the Peace, from office, or whether a recommendation should be made that the Justices of the Peace Review Council implement a decision to:

- (a) warn the Justice of the Peace;
- (b) reprimand the Justice of the Peace;
- (c) order the Justice of the Peace to apologize to the complainant or to any other person;
- (d) order the Justice of the Peace to take specified measures, such as receiving education or treatment as a condition of continuing to sit as a Justice of the Peace;
- (e) suspend the Justice of the Peace with pay for any period; or
- (f) suspend the Justice of the Peace without pay, but with benefits for a period up to thirty days.

The inquiry will consider:

1. Whether, on September 6, 2005, Justice of the Peace Sinai advised an accused to plead guilty to various traffic offences, failed to afford the accused an opportunity to address the facts or the appropriate sanction, then convicted the accused and adopted the Crown's submission on sanction.
2. Whether, in May 2006, after learning that the Justices of the Peace Review Council was commencing an investigation into the matter referred to above, Justice of the Peace Sinai responded to an inquiry from his Regional Senior Justice of the Peace by (i) stating that he would be unable to render two reserved judgments (one of which had been outstanding for a year and a half) unless the Regional Senior Justice of the Peace could make the Justices of the Peace Review Council investigations "go away", and (ii) refusing to speak to the Regional Senior Justice of the Peace or send a letter clarifying his position with respect to rendering judgment in the outstanding matters.

The public hearing will commence on January 15, 2008 at 10:00 a.m. at **JPR Arbitration Hearing Centre Inc., 390 Bay Street, Hearing Room A, 3<sup>rd</sup> Floor, Toronto, Ontario, M5H 2Y2** and will continue daily at the same time and place until completed.

Any person who wishes to give evidence at the inquiry or who has information he or she believes will be of interest to the inquiry or who wishes to bring a preliminary motion is requested to contact Gavin MacKenzie or Trevor Guy, Commission Counsel, no later than **December 14, 2007** at the address below:

**Gavin MacKenzie/Trevor Guy**  
Commission Counsel  
Heenan Blaikie LLP  
Suite 2600  
200 Bay Street, South Tower  
P.O. Box 185, Royal Bank Plaza  
Tel: 416-360-2892 or 416-643-6913  
Fax: 416-360-8425  
E-mail: [gmackenzie@heenan.ca](mailto:gmackenzie@heenan.ca)  
[tguy@heenan.ca](mailto:tguy@heenan.ca)

**The Honourable Justice David George Carr**  
Commissioner  
Ontario Court of Justice  
200 Frederick Street  
Kitchener, ON N2H 6P1  
Toronto, ON M5J 2J4

**COMMISSION OF INQUIRY  
INTO THE CONDUCT OF  
HIS WORSHIP BENJAMIN SINAI,  
A JUSTICE OF THE PEACE**

**STATEMENT OF AGREED FACTS**

**I. APPOINTMENT OF COMMISSION OF INQUIRY**

1. By Order in Council dated June 27, 2007, the Honourable Justice David George Carr of the Ontario Court of Justice was appointed pursuant to section 12(1) of the *Justices of the Peace Act*, R.S.O. 1990, c. J.4, as it read immediately before January 1, 2007, to inquire into the question of whether, based on the complaints investigated by the Justices of the Peace Review Council in its report dated January 25, 2007, there has been misconduct by His Worship Benjamin Sinai, a Justice of the Peace, and to recommend whether the Lieutenant-Governor in Council should remove the Justice of the Peace from office, or to recommend that the Justices of the Peace Review Council implement a disposition to:
  - (a) warn the Justice of the Peace;
  - (b) reprimand the Justice of the Peace;
  - (c) order the Justice of the Peace to apologize to the complainant or to any other person;
  - (d) order the Justice of the Peace to take specified measures, such as receiving education or treatment as a condition of continuing to sit as a Justice of the Peace;
  - (e) suspend the Justice of the Peace with pay for any period; or
  - (f) suspend the Justice of the Peace without pay, but with benefits for a period up to thirty days.
2. The Commission of Inquiry was appointed on the recommendation of the Justices of the Peace Review Council upon the completion of investigations into a complaint forwarded by Her Worship Jane E. Forth, Regional Senior Justice of the Peace for the North East Region ("R.S.J.P. Forth"), from an anonymous complainant, as well as a complaint of the Honourable Justice Donald Ebbs, Associate Chief Justice Coordinator of Justices of the Peace ("A.C.J. Ebbs").
3. The Order in Council dated June 27, 2007 is under Tab 1.
4. The Report of the Opinion of the Justices of the Peace Review Council respecting its investigations into the anonymous complaint forwarded by R.S.J.P. Forth as well as the complaint of A.C.J. Ebbs is under Tab 2.
5. A Notice of Public Hearing was published in the Ontario Reports (November 23, 2007), the Cochrane Times-Post (November 23, 2007), the North Bay Nugget (November 23, 2007), and L'Ours Noir (November 23, 2007). A copy of the Notice of Public Hearing is under Tab 3.

## **II. BACKGROUND CONCERNING JUSTICE OF THE PEACE SINAI**

6. Benjamin Sinai was appointed a Justice of the Peace by order-in-council dated June 28, 1984. He has held a designation as a presiding Justice of the Peace since then, and has performed the full range of functions required of Justices of the Peace, including presiding in assignment court, bail court, intake court, and *Provincial Offences Act* court. He has presided exclusively in the North East Region. Justice of the Peace Sinai is 66 years old.

## **III. ISSUES**

7. The following issues, as set forth in the Notice of Public Hearing under Tab 3, are raised for determination by this Commission of Inquiry:
  - (i) Whether, on September 6, 2005, Justice of the Peace Sinai advised an accused to plead guilty to various traffic offences, failed to afford the accused an opportunity to address the facts or the appropriate sanction, then convicted the accused and adopted the Crown's submission on sanction.
  - (ii) Whether, in May 2006, after learning that the Justices of the Peace Review Council was commencing an investigation into the matters referred to above, Justice of the Peace Sinai responded to an inquiry from his Regional Senior Justice of the Peace by (i) stating that he would be unable to render two reserved judgments (one of which had been outstanding for a year and a half) unless the Regional Senior Justice of the Peace could make the Justices of the Peace Review Council investigations "go away," and (ii) refusing to speak to the Regional Senior Justice of the Peace or send a letter clarifying his position with respect to rendering judgment in the outstanding matters.
8. In the event that either of these questions is answered affirmatively, the Commission of Inquiry will be called upon to decide whether such conduct constitutes misconduct, and, if, so whether a recommendation should be made that the Lieutenant-Governor in Council should remove Justice of the Peace Sinai from office, or whether a recommendation should be made that the Justices of the Peace Review Council implement a decision to:
  - (a) warn the Justice of the Peace;
  - (b) reprimand the Justice of the Peace;
  - (c) order the Justice of the Peace to apologize to the complainant or to any other person;

- (d) order the Justice of the Peace to take specified measures, such as receiving education or treatment as a condition of continuing to sit as a Justice of the Peace;
- (e) suspend the Justice of the Peace with pay for any period; or
- (f) suspend the Justice of the Peace without pay, but with benefits for a period up to thirty days.

**IV. ISSUE NUMBER ONE:**

**The Anonymous Complaint Forwarded by R.S.J.P. Forth**

- 9. On September 6, 2005 in Parry Sound, Justice of the Peace Sinai presided over three matters arising under the *Highway Traffic Act* involving the same accused. A transcript of the proceedings on September 6, 2005 is under Tab 4.
- 10. The accused, Brian Lashbrook, age 23, had been charged with the following three offences:
  - 1. speeding 120 kilometres per hour in a posted 80 kilometre zone;
  - 2. driving a motor vehicle without a current validated permit; and
  - 3. driving a motor vehicle while being a class G1 license holder unaccompanied by a qualified driver.
- 11. Mr. Lashbrook appeared unrepresented. After Justice of Peace Sinai heard that Mr. Lashbrook was appearing for the first time, the following exchange took place:

THE COURT: Brian, what do you want to do with these?

MR. LASHBROOK: I don't know what the options are.

THE COURT: I cannot hear you.

MR. LASHBROOK: I don't know what my options are.

THE COURT: Well, you have come into court without knowing anything. Do you expect us to give you a whole education on what is to transpire?

MR. LASHBROOK: I've never been in court before.

THE COURT: But you did not find out from anybody what you were supposed to do prior to getting here?

MR. LASHBROOK: No.

THE COURT: So in that case I am just going to tell you suppose you plead guilty and we get rid of it this morning.

MR. LASHBROOK: Okay.

THE COURT: Do you want to plead guilty on all matters?

MR. LASHBROOK: Yes.

12. The matters were then held down, after which the Crown and Mr. Lashbrook had a brief discussion. During this discussion, the Crown advised Mr. Lashbrook that, if Mr. Lashbrook agreed to plead guilty to counts 1 and 3, then the Crown would withdraw count 2. Mr. Lashbrook agreed.
13. Soon after, the matters were again heard by Justice of the Peace Sinai, who asked Mr. Lashbrook for his plea to the two charges. Mr. Lashbrook pleaded guilty. Justice of the Peace Sinai then had the following exchange with Mr. Lashbrook:

THE COURT: Do you want to say anything to the court concerning the facts, sir?

MR. LASHBROOK: Just that...

THE COURT: The facts being admitted, conviction is entered...

14. Justice of the Peace Sinai then moved on to the appropriate sanction. On the first count, the Crown recommended that Mr. Lashbrook receive a fine of \$280.00 plus applicable court surcharges, the penalty prescribed by the *Highway Traffic Act* for the same offence. On the third count, which is punishable by a fine of \$60-\$500, the Crown recommended a fine of \$150.00. Justice of the Peace Sinai accepted both of these submissions, and sentenced Mr. Lashbrook accordingly.
15. Later that day, R.S.J.P. Forth received an email about the events described above from an enforcement officer who wished to remain anonymous. In a letter dated October 18, 2005, found under Tab 5, R.S.J.P. Forth forwarded this complaint to the Justices of the Peace Review Council.

**V. ISSUE NUMBER TWO:**

**Complaint of A.C.J. Ebbs**

16. In a letter dated January 3, 2006, Justice of the Peace Sinai received notice that the Justices of the Peace Review Council was commencing an investigation into the complaint described above. This letter asked for Justice of the Peace Sinai's response to this matter by February 6, 2006. A copy of this letter is under Tab 6.
17. In a letter dated January 24, 2006, Justice of the Peace Sinai responded to the complaint described above, as well as to the events giving rise to a complaint that the Justices of the Peace Review Council ultimately recommended did not merit further inquiry. A copy of this letter is under Tab 7.
18. On March 13, 2006, Justice of the Peace Sinai went on sick leave. Three days later, in a letter dated March 16, 2006, his attending physician, Dr. J. O'Donnell, informed R.S.J.P. Forth that Justice of the Peace Sinai should be "off work" for "an indefinite time." The

reason for this leave was that Justice of the Peace Sinai was experiencing stress that was affecting his concentration and judgment. It was Justice of the Peace Sinai's opinion that his continued performance at this substandard level reflected poorly on the administration of justice. A copy of this letter is found under Tab 8.

19. At the time Justice of the Peace Sinai took this leave, he had two decisions under reserve. One of these was *R. v. North Bay Hospital*, a decision which had been under reserve since the completion on October 25, 2005 of a lengthy trial involving 10 appearances by the parties.
20. In a letter dated May 1, 2006, R.S.J.P. Forth wrote to Justice of the Peace Sinai, inquiring as to whether he could provide a timeline for when his outstanding judgments would be rendered. A copy of this letter is under Tab 9.
21. Shortly thereafter, Justice of the Peace Sinai had a conversation with R.S.J.P. Forth's administrative assistant, Ms. Lorna Laforest, with whom he had had a working relationship for approximately 15 years. This conversation concerned Justice of the Peace Sinai's medical condition and his outstanding decisions, and will be the subject of *viva voce* evidence at the hearing. Ms. Laforest previously testified about the details of this conversation before the Justices of the Peace Review Council on December 19, 2006. A copy of the transcript of her testimony on that occasion is under Tab 10.
22. In a letter dated May 31, 2006, R.S.J.P. Forth sought Justice of the Peace Sinai's clarification with respect to rendering his outstanding decision in *R. v. North Bay Hospital*. R.S.J.P. Forth also stated that, if Justice of the Peace Sinai could not render the outstanding decision, that she had the power to arrange to have the matter dealt with by another Justice of the Peace. She requested that Justice of the Peace Sinai provide a response in writing by June 15, 2006. A copy of this letter is under Tab 11.
23. Shortly thereafter, Justice of the Peace Sinai had a second conversation with Ms. Laforest, again concerning Justice of the Peace Sinai's medical condition and outstanding decisions. This conversation also concerned Justice of the Peace Sinai's medical condition and his outstanding decisions, and will also be the subject of *viva voce* evidence at the hearing. Ms. Laforest previously testified about the details of this conversation before the Justices of the Peace Review Council on December 19, 2006. A copy of the transcript of her testimony on that occasion is under Tab 10.
24. Other than the two letters mentioned above, Justice of the Peace Sinai and R.S.J.P. Forth did not communicate about the outstanding decisions.
25. In a letter dated June 7, 2006, A.C.J. Ebbs filed the complaint under Tab 12. The details of the complaint were relayed to A.C.J. Ebbs by R.S.J.P. Forth.
26. In a letter dated July 6, 2006, Thomas A. Glassford, Assistant Registrar of the Justices of the Peace Review Council notified Justice of the Peace Sinai that the Justices of the Peace Review Council had received the complaint filed by A.C.J. Ebbs, and asked for His Worship's comments by July 24, 2006. This letter is under Tab 13.

27. In a letter dated July 21, 2006, counsel for Justice of the Peace Sinai, Dennis W. Fenton, wrote to Thomas A. Glassford to request an extension of time to respond to the complaint filed by A.C.J. Ebbs. In a letter dated July 25, 2006, contained under Tab 14, Thomas A. Glassford, granted such an extension until August 4, 2006.
28. July 26, 2006, Justice of the Peace Sinai's attending physician, Dr. J. O'Donnell completed the Attending Physician's Initial Long-Term Disability Benefit Statement under Tab 15.
29. On August 4, 2006, Dennis W. Fenton wrote to Thomas A. Glassford, responding to the complaint filed by A.C.J. Ebbs. This letter is under Tab 16.
30. In a letter dated November 21, 2006, Great-West Life Assurance Company denied Justice of the Peace Sinai's claim for disability benefits. This letter is under Tab 17.

**VI. JUSTICES OF THE PEACE REVIEW COUNCIL INQUIRY**

31. On December 19, 2006, the Justices of the Peace Review Council held an inquiry into the complaints described above. In addition to receiving the evidence of Ms. Laforest as referred to above, the Justices of the Peace Review Council heard testimony from R.S.J.P. Forth. A copy of the transcript of her testimony on that occasion is under Tab 18.

**VII. ACKNOWLEDGEMENT**

32. Justice of the Peace Sinai acknowledges that before signing this Statement of Agreed Facts he reviewed it carefully and obtained the advice of his counsel, Dennis Fenton.

DATED at Toronto this 15th day of January 2007

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Gavin MacKenzie  
Commission of Inquiry Counsel  
Heenan Blaikie LLP  
P.O. Box 185, Suite 2600  
South Tower, Royal Bank Plaza  
Toronto, Ontario, M5J 2J4

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Justice of the Peace Sinai